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NOTICE OF ALLOWANCE AND FEE(S) DUE

28785

7590

03/19/2010

JOHN R LEY, LLC
5299 DTC BLVD, SUITE 340
GREENWOOD VILLAGE, CO 80111

EXAMINER

MARCEITCH, ADAM M

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 03/19/2010

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,742	09/17/2003	Magnus Bolmsjo	211.313	4686

TITLE OF INVENTION: PARTIAL-LENGTH, INDWELLING PROSTATIC CATHETER USING COILED INFLATION TUBE AS AN ANCHOR AND METHODS OF DRAINING URINE AND FLUSHING CLOTS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$755	\$300	\$0	\$1055	06/21/2010

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop **ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
 or Fax (571)-273-2885**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

28785 7590 03/19/2010
JOHN R LEY, LLC
5299 DTC BLVD, SUITE 340
GREENWOOD VILLAGE, CO 80111

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop **ISSUE FEE** address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Magnus Bolmsjo

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nonprovisional	YES	\$755	\$300	\$0	\$1055	06/21/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
MARCETICH, ADAM M	3761	604-540000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
 (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

- ☐ a. Applicant claims **SMALL ENTITY** status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming **SMALL ENTITY** status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____
 Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.**

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JOHN R LEY, LLC 5299 DTC BLVD, SUITE 340 GREENWOOD VILLAGE, CO 80111			MARCEYCH, ADAM M	
			ART UNIT	PAPER NUMBER

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Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 670 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 670 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability**Application No.**

10/665,742

Applicant(s)

BOLMSJO ET AL.

Examiner

Adam Marcetich

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to 24 November 2009.
2. ☒ The allowed claim(s) is/are 1,5,8-11,20-27,31,33-36,38,44,45,47 and 92-95.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date See Continuation Sheet
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Adam Marcetich/
Examiner, Art Unit 3761

/Leslie Deak/
Primary Examiner, AU 3761

Continuation of Attachment(s) 3. Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date: 12/11/2009, 11/24/2009, 04/28/2008, 05/25/2005, 02/09/2004.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 24 November 2009 has been entered.

Allowable Claims

2. Claims 1,5, 8-11, 20-27, 31,33-36, 38, 44, 45, 47 and 92-95 are allowed over the prior art of record.

Reasons For Allowance

3. The following is an examiner's statement of reasons for allowance: the closest prior art of record, Rioux et al. (US 6494855) discloses:

4. an indwelling catheter (col. 1, lines 45-52, especially lines 48-52, configuration to provide constant drainage); comprising:

5. a main body having a distal end, a proximal end and a length sufficient to position the indwelling catheter in the use position (col. 4, lines 52-57, Figs. 3, 4, first tubular segment 10 positioned with balloon end within bladder and proximal end distal of sphincter 70);

6. a balloon attached to the distal end of the main body, the balloon expandable in size within the bladder to maintain the distal end in the bladder and restrain the main body against proximal movement within the urinary tract from a use position, (col. 7, lines 40-42, Figs. 3, 4, inflatable balloon 1 within bladder and proximal end adjacent to and distal to sphincter 70); and
7. an inflation tube (col. 7, lines 42-47 and Fig. 3, tube 3 connected to inflatable balloon 1).
8. Rioux discloses the invention as substantially claimed, see above. However, Rioux lacks a coiled section of an inflation tube as claimed [1]. A coiled section of an inflation tube is critical to the invention since it maintains an indwelling catheter within a urinary canal while allowing urine to pass through the urinary canal (p. 10-11, lines 23-4, Fig. 6, coiled section 54 maintaining catheter 20 within canal 36).
9. Ressemann discloses an intravascular balloon catheter (col. 2, lines 34-43, col. 3, lines 42-52, Fig. 1, catheter 10) comprising:
 10. a balloon (col. 5, lines 5-18, inflation lumen 33 at proximal end); and
 11. helical inflation tube (col. 5, lines 5-18, Fig. 5, helical tube 31).
 12. However, Ressemann fails to remedy the deficiencies of since Ressemann calls for helical tube 31 to have a low profile, which does not produce resistance (col. 5, lines 58-61, helical tube 31 navigating through tortuous anatomy). Additionally, Ressemann locates helical tube 31 within a sheath that separates it from vessel walls (col. 5, lines 61-65, Fig. 5, sheath 23). Therefore, Resseman teaches away from a helical tube that would restrain a catheter within a vessel. Also, the entire Ressemann device anchors

outside body of patient, instead of within a urinary canal as taught by Rioux and also for the claimed device.

13. Also of record, Hakki; A-Hamid et al. (US 5569219) discloses a urinary catheter (col. 3, lines 49-57, col. 5, lines 61-65, Fig. 1, catheter tube 10), comprising:

14. a balloon attached to a distal end (col. 6, lines 20-30, Fig. 1, balloon 18); and

15. inflatable helical lumen (col. 6, lines 12-19, Fig. 1, spiral non-distensible hollow tube 15).

16. However, balloon 18 is not inflated with tube 15 and instead has a separate inflation lumen (col. 6, lines 24-30, tube 19). Therefore Hakki lacks a helical tube restraining a catheter. Additionally, Hakki surrounds tube 15 with catheter body 10 (Fig. 2), preventing interaction between a vessel lumen and tube 15.

17. Other prior art relevant to the claimed catheter and catheter assembly,

- ♦ Anderson, Jr.; Donald L. et al. US 4813925
- ♦ Bolmsjo; Magnus US 6119045
- ♦ Chaisson; Gary A. et al. US 5449362
- ♦ Gellman, Barry N. US 20030181842
- ♦ Huxel, Shawn Thayer et al. US 20020002399
- ♦ Lennox; Charles D. et al. US 6835183
- ♦ Norton; William J. et al. US 4531933
- ♦ Sivan; Tovy et al. US 20060095058
- ♦ Whalen, Mark J. et al. US 20020107540

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18. each disclose helical elements for anchoring catheters. However, none of the above references teach a coiled inflation tube, and therefore fail to remedy the deficiencies of Roux.

19. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

20. Applicant's arguments, see p. 11-24 filed 24 November 2009 with respect to the rejection(s) of claim(s) claims 1,5, 8-12, 20-27, 30, 31,33-38, 40, 44, 45 and 47 under 35 USC § 103 over Rioux, Ressemann, Devonec and Ewers have been fully considered and are persuasive. Therefore, the rejection is withdrawn.

Conclusion

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to:

Adam Marcetich

Tel 571-272-2590

Fax 571-273-2590

22. The Examiner can normally be reached on 8:00am to 4:00pm Monday through Friday.

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23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Adam Marcetich/
Examiner, Art Unit 3761

/Leslie Deak/
Primary Examiner, AU 3761